

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION

ORDER NO. 89-188

CITIES OF SAN JOSE AND SANTA CLARA
SAN JOSE/SANTA CLARA WATER POLLUTION CONTROL PLANT
SAN JOSE, SANTA CLARA COUNTY

AMENDING ORDER NO. 89-013, REQUIRING THE CITIES OF SAN JOSE AND SANTA CLARA TO CEASE AND DESIST DISCHARGING WASTE CONTRARY TO DISCHARGE PROHIBITIONS IN ORDER NO. 89-012 (NPDES PERMIT)

The California Regional Water Quality Control Board, San Francisco Bay Region (hereinafter called the Board), finds that:

1. On January 18, 1989, the Board adopted Order No. 89-012, reissuing waste discharge requirements for the Cities of San Jose and Santa Clara (hereinafter the discharger), for the San Jose/Santa Clara Water Pollution Control Plant. This NPDES permit prohibits discharges south of the Dumbarton Bridge, discharges to dead-end sloughs, and discharges receiving less than 10:1 minimum dilution.
2. On January 18, 1989, the Board adopted Cease and Desist Order No. 89-013, requiring the discharger to cease and desist discharging waste contrary to Order No. 89-012 (Prohibitions A.1, A.2, A.3). Discharge from the facility has resulted in loss and degradation of endangered species habitat. The CDO set a time schedule for achieving full compliance with Order No. 89-012. The CDO required the discharger to submit, by September 1, 1989, a proposal for either (i) mitigation for loss of endangered species habitat, or (ii), compliance with the three prohibitions. Mitigation is necessary in order for the Board to approve an exception to the three prohibitions. The September 1 deadline was amended to December 1, 1989, by Order No. 89-140.
3. Order No. 89-013 was appealed to the State Water Resources Control Board. The State Board is expected to hear the appeal early in 1990. The State Board's decision may affect the requirements of the mitigation plan required of the discharger.
4. At the Board's November 15, 1989, meeting the discharger requested that the Regional Board post-pone making a decision on mitigation acreage until the January, 1990, Board meeting. This delay would allow the Fish and Wildlife Service and other interested parties time to respond to two reports on the causes and effects of conversion submitted by the discharger in early October. The Board agreed to this request.

5. The discharger will have to make a considerable effort to prepare a mitigation plan consistent with Order No. 89-013. Much of this effort could be wasted if the State Board makes substantial changes in the Regional Board's mitigation requirements in deciding the appeals.

6. This action is an order to enforce waste discharge requirements previously adopted by the Board. It is therefore categorically exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15321 of the Resources Agency CEQA Guidelines.

7. The discharger and interested parties have been notified of the Board's intent to take this enforcement action, and have been provided with an opportunity to submit written comments and appear at the public meeting.


8. At a public hearing on December 13, 1989, the Board heard and considered all comments pertaining to the discharge.

IT IS HEREBY ORDERED THAT:

A. Order No. 89-013, a Cease and Desist Order issued to the Cities of San Jose and Santa Clara, shall be amended as shown below.

B. Provision D shall be revised to change the date of full compliance from December 1, 1989, to 30 days after the State Board takes final action on the appeals of Order 89-013 (including any Regional Board action mandated by the decision).

I, Steven R. Ritchie, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, San Francisco Bay Region, on December 13, 1989.



STEVEN R. RITCHIE
Executive Officer